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OFFICE OF PETITIONS

In re Application of
Astles, et al. :
Application No. 10/500,517 :
Filed: June 29, 2004 :
Attorney Docket No. 22059P :
For: AZA-CYCLIC COMPOUNDS AS
MODULATORS OF ACETYLCHOLINE
RECEPTORS

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed March 19, 2008 (certificate of mailing date March 17, 2008) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and publication fee in response to the September 19, 2007 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. No reply being received, the Office contended that this application became abandoned on December 20, 2007. A Notice of Abandonment was mailed on January 16, 2008.

Petitioners allege that the September 19, 2007 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the requirements would have been entered had the September 19, 2007 Notice been received. In addition, practitioner referenced the docket record in the petition and stated that a search of the docket record and file jacket for the September 19, 2007 Notice was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the January 16, 2008 Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

As petitioners have submitted a completed PTOL-85(B) and the issue and publication fees, it is unnecessary to re-mail the September 19, 2007 Notice of Allowance and Fee(s) Due.

After the mailing of this decision, the application will be forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.


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